

Bill as Introduced

HB 474 - AS AMENDED BY THE HOUSE

7Apr2021... 0461h

2021 SESSION

21-0621
06/10

HOUSE BILL

474

AN ACT

prohibiting surveillance by the state on public ways or sidewalks.

SPONSORS:

Rep. Erf, Hills. 2; Rep. Warden, Hills. 15

COMMITTEE:

Judiciary

ANALYSIS

This bill prohibits the use of surveillance to determine the location of a motor vehicle or the identity or location of a pedestrian.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT prohibiting surveillance by the state on public ways or sidewalks.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Highway Video Surveillance; Highway Surveillance Prohibited. Amend RSA 236:130, I and II
2 to read as follows:

3 I. In this subdivision, "surveillance" means ~~[the act of determining the ownership of a motor~~
4 ~~vehicle or the identity of a motor vehicle's occupants on the public ways of the state or its political~~
5 ~~subdivisions through]~~ the use of a camera or other imaging device or any other device, including but
6 not limited to a transponder, cellular telephone, global positioning satellite, or radio frequency
7 identification device, that by itself or in conjunction with other devices or information can be used to
8 determine the ownership *or location* of a motor vehicle, ~~[or]~~ the identity of a motor vehicle's
9 occupants, *or the identity or location of a pedestrian.*

10 II. *In order to protect the personal privacy of residents and visitors to the state,*
11 neither the state of New Hampshire nor its political subdivisions shall engage in surveillance on any
12 public ways, *as defined in RSA 259:125, or sidewalks, as defined in RSA 259:100,* of the state
13 or its political subdivisions.

14 2 New Paragraph; Highway Surveillance Prohibited. Amend RSA 236:130 by inserting after
15 paragraph V the following new paragraph:

16 VI. Any person who suffers injury as a result of a violation of this section shall be entitled to
17 damages from the person who committed the violation of not less than \$1,000 for each such violation,
18 and an award of costs and reasonable attorney fees.

19 3 New Subparagraph; Highway Surveillance Prohibited. Amend RSA 236:130, III by inserting
20 after subparagraph (g) the following new subparagraph:

21 (h) Is undertaken for security and to facilitate law enforcement in the investigation of
22 criminal activity at properties under the jurisdiction of the department of natural and cultural
23 resources, provided that no video recording shall be stored longer than 24 days except if needed in a
24 judicial or administrative proceeding in a particular case. The properties on which surveillance
25 occurs shall display signage indicating the presence of 24-hour video cameras.

26 4 Effective Date. This act shall take effect upon its passage.

Amendments

Amendment to HB 474

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 Highway Surveillance Prohibited. Amend RSA 236:130, I-II to read as follows:

4 I. In this subdivision, "surveillance" means ~~[the act of determining the ownership of a motor~~
5 ~~vehicle or the identity of a motor vehicle's occupants on the public ways of the state or its political~~
6 ~~subdivisions through]~~ the use of a camera or other imaging device or any other device, including but
7 not limited to a transponder, cellular telephone, global positioning satellite, or radio frequency
8 identification device, that by itself or in conjunction with other devices or information can be used to
9 determine the ownership *or location* of a motor vehicle, ~~[or]~~ the identity of a motor vehicle' s
10 occupants, *or the identity or location of a pedestrian.*

11 II. *In order to protect the personal privacy of residents and visitors to the state,*
12 *neither the state of New Hampshire nor its political subdivisions shall engage in surveillance on any*
13 *public ways, as defined in RSA 259:125, or sidewalks, as defined in RSA 259:100, of the state*
14 *or its political subdivisions. The provisions of this section shall not apply to independent*
15 *contractors.*

16 2 New Paragraph; Highway Surveillance Prohibited. Amend RSA 236:130 by inserting after
17 paragraph V the following new paragraph:

18 VI. Any person who suffers injury as a result of a violation of this section shall be entitled to
19 damages from the person who committed the violation of not less than \$1,000 for each such violation,
20 and an award of costs and reasonable attorney fees.

21 3 Highway Surveillance Prohibited. Amend RSA 236:130, III(b) to read as follows:

22 ~~(b) Is undertaken on a case-by-case basis in the investigation of a particular *incident,*~~
23 ~~violation, misdemeanor, or felony;~~

24 4 New Subparagraphs; Highway Surveillance Prohibited. Amend RSA 236:130, III by inserting
25 after subparagraph (g) the following new subparagraphs:

26 (h) Is undertaken for security and to facilitate law enforcement in the investigation of
27 criminal activity at properties under the jurisdiction of the department of natural and cultural
28 resources, provided that no video recording shall be stored longer than 24 days except if needed in a
29 judicial or administrative proceeding in a particular case. The properties on which surveillance
30 occurs shall display signage indicating the presence of 24-hour video cameras.

31 (i) Is undertaken using a body-worn camera pursuant to RSA 105-D.

32 5 Effective Date. This act shall take effect upon its passage.

Committee Minutes

SENATE CALENDAR NOTICE

Judiciary

Sen Sharon Carson, Chair
Sen Bill Gannon, Vice Chair
Sen Harold French, Member
Sen Rebecca Whitley, Member
Sen Jay Kahn, Member

Date: April 7, 2021

HEARINGS

Wednesday

04/14/2021

(Day)

(Date)

Judiciary

REMOTE 000

1:00 p.m.

(Name of Committee)

(Place)

(Time)

1:00 p.m.	HB 83	prohibiting non-disparagement clauses in settlement agreements involving a governmental unit.
1:15 p.m.	HB 360	relative to the rental of shared living facilities.
1:30 p.m.	HB 436	relative to eyewitness identification procedures.
1:45 p.m.	HB 474	prohibiting surveillance by the state on public ways or sidewalks.
2:00 p.m.	HB 540	relative to supported decision-making as an alternative to guardianship.
2:15 p.m.	HB 630	authorizing certain procedures for rulemaking.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/98477564267>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: US: +13126266799,,98477564267# or +16465588656,,98477564267#
4. Webinar ID: [984 7756 4267](https://www.zoom.us/j/98477564267)
5. To view/listen to this hearing on YouTube, use this link: <https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak; register your position on a bill and/or submit testimony, use this link: <http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 83

Rep. Berch

Rep. Schultz

Rep. M. Smith

Rep. Sylvia

Rep. Meuse
Rep. DiLorenzo

HB 360

Rep. Frost

HB 436

Rep. Cushing

HB 474

Rep. Erf

HB 540

Rep. Chase

Rep. Cannon

Sen. Whitley

HB 630

Rep. McGuire

Sen. Reagan

Rep. McGuire

Rep. Harriott-Gathright

Rep. Warden

Rep. Langley

Rep. Gordon

Rep. McMahon

Rep. P. Schmidt

Rep. Amanda Bouldin

Rep. Welch

Rep. Marsh

Rep. M. Pearson

Sen. Rosenwald

Rep. Hatch

Rep. Stevens

Rep. Weber

Rep. Berch

Rep. Schuett

Jennifer Horgan 271-7875

Sharon M Carson
Chairman

Senate Judiciary Committee

Sonja Caldwell 271-2117

HB 474, prohibiting surveillance by the state on public ways or sidewalks.

Hearing Date: April 14, 2021

Time Opened: 2:23 p.m.

Time Closed: 2:51 p.m.

Members of the Committee Present: Senators Carson, Gannon, French and Whitley

Members of the Committee Absent : Senator Kahn

Bill Analysis: This bill prohibits the use of surveillance to determine the location of a motor vehicle or the identity or location of a pedestrian.

Sponsors:

Rep. Erf

Rep. Warden

Who supports the bill: 68 people signed up in support. Sign in sheet available upon request.

Who opposes the bill: 84 people signed up in opposition. Sign in sheet available upon request.

Who is neutral on the bill: 7 people signed up neutral.

Summary of testimony presented in support:

Rep. Keith Erf

- The bill makes changes to RSA236:130, titled "highway video surveillance." This statute prohibits the state and its subdivisions from using surveillance technology to track the owner and occupants of vehicles, with some exceptions stated in the statute.
- This bill adds a prohibition on tracking their location, determining the identity, or tracking the location of pedestrians on sidewalks.
- It clarifies the relationship of the statute to a constitutional right to privacy.
- It provides penalty of \$1,000 plus attorney fees for violating the statute.
- It addresses a problem in the existing statute by exempting the Department of Natural Resources from the statute.

Neal Kurk

- He supports the bill.
- It was introduced because of a court case that determined it was ok to engage in highway surveillance. The court interpreted the statute to say that if you took the pictures, you could

not use that information to identify anyone. That was not the purpose of the original statute. The original statute intended to prevent municipalities and the state from tracking citizens as they go about their business on highways.

- This bill says the act of taking pictures is what is prohibited as well as using them to identify the ownership, occupants, and location of the vehicle.
- Most people do not expect the state or town to take pictures of them as they drive on highway or walk on sidewalks.
- There are exemptions in the original statute for these things to occur with a court order.
- There are exemptions for the park and ride facilities where you can use cameras to protect those vehicles.
- The Dept. of Natural and Cultural Resources was added to the exemptions because some of the parking lots and walkways in state parks would be considered pedestrian sidewalks or highways and they want to ensure the facilities are protected and this bill provides that.
- State and municipal buildings which have cameras to protect them that may incidentally capture traffic on a nearby highway are exempted and this bill would not affect that.

Sen. French asked if this bill only prohibits the state and not individuals from doing this.

Rep. Kurk said this bill applies to governments, not private individuals or corporations or the private sector.

Sen. French asked if the tolls are already taken out.

Rep. Kurk said yes under current statute.

Sen. Gannon asked with regard to downtown Manchester if the police are not allowed to surveille for public safety.

Rep. Kurk said if the City of Manchester use cameras on Elm St. that would be in violation under this bill. Manchester was the city involved in the lawsuit he referenced. Under current law, as the judge interpreted the statute, Manchester can take the pictures, but they can't use them to identify anyone, which is not what the legislature intended, and makes taking the pictures useless.

Ross Connolly – Americans For Prosperity

- They support the bill. It prohibits the state from engaging in warrantless surveillance of citizens.
- We all have a lower expectation of privacy when we drive on public roads, but the court has only created a constitutional floor for privacy.
- The legislature should do more to protect privacy.
- Given the rapid deployment of tracking technology, they view this prohibition as necessary.
- The ability to live free from government intrusion is natural and inherent.

Sen. Gannon said he does not see inherent danger in cameras. He sees safety value in cameras on Elm Street in Manchester, for example. He would not want police to do facial recognition randomly, but if they saw a crime or robbery then they could recognize someone; that is a safety issue. He asked if he was off base in his thinking.

Mr. Connolly said they view this as the bill only applies to government institutions. If a crime takes place in Manchester, there are plenty of businesses that have surveillance video, and a warrant would be appropriate to find out more about that crime. They are opposed to the government using equipment to constantly surveille the citizens of NH.

Summary of testimony presented in opposition:

Mark Doyle - Director of Division of Emergency Services and Communications at DOS

- He is opposed to the bill. He oversees the NH E-911 system.
- This bill would have unintended consequences on the ability of NH's E-911 system to render help.
- Incapacitated drivers involved in a crash or medical event who rely on onboard telematics to notify E-911 are designed to provide location information to call takers without human intervention. This would be hindered, delaying emergency responders. These services are expected to work as designed. This includes provisioning of GPS location services to 911.
- Pedestrians also rely on smart devices with built-in fall detection, which also provide identifying and location information.
- It is imperative that systems that citizens rely on to provide info to 911 can do so without impeding our ability to notify first responders of the nature of a crash or medical event and the location of where that event has taken place.
- This bill will prevent emergency communication system from working as designed.

Scott Plumer – Captain with Bedford Police

- He has been a police officer for more than 25 years.
- He is testifying in opposition to the bill on behalf of the Bedford Police Dept. and the NH Association of Chiefs of Police.

He is concerned that the bill will have impacts on in-car and body camera systems used by police. Bedford Police implemented body and in-car camera systems over a year ago. They record all encounters with some exceptions. They have received positive feedback from the public and their officers on their use. The consensus from the public is that they want them to use these devices. The body and in-car cameras create an independent third-party observer of police activity. Current law has safeguards in place and this bill could create conflicts with those laws. This bill changes definition of surveillance to encompass most recordings by law enforcement in public and provides no exceptions or exemptions. The bill also adds significant punitive sanctions for individual police officers found to be in violation of the bill.

Sen. Gannon asked if this bill would outlaw fix-mounted cameras on Elm Street in Manchester. Captain Plumer said yes it does.

Sen. French stated that he did not see where this bill covers body cameras.

Captain Plumer explained that police are out in public and when they record things, they are recording things that could be passing by them, such as cars or people. Without any exceptions they could be in violation of this bill.

Rep. Timothy Horrigan

- He shares the concerns the police voiced. This bill could impede their legitimate efforts.
- We live in a surveillance state, there are cameras everywhere. He said it seems like you can use everyone's cameras except the police.
- He does not think this bill is the right solution. Section 3 covers the Division of Natural and Cultural Resources, however there are many other government institutions that own property and have cameras to protect themselves.
- He referenced what happened on January 6th at the Capital and said various technological means were used to prove that the people who gathered in front of the White House were the same people who marched down to the Capital. He believes that is a good thing that many people who engaged in illegal activity are being prosecuted. This is also how we caught the

911 hijackers, with facial recognition software matching their faces with video from various surveillance cameras.

- This bill needs more work to find compromise that meets needs of all stakeholders.

Neutral Information Presented:

Gary Abbott – Associated General Contractors

- They are concerned about the bill because they use a lot of cameras on state DOT projects.
- Contractors use drones and cell phones taking pictures of the job site and they are in the highway and sidewalk areas. It becomes a legal question regarding what surveillance is, and what is taking a picture and getting a car that is going by.
- He looked at the exemptions in the existing statute and it is not clear. The legal question is as a contractor, are you an extension of the state or are they considered separate from the state when working on a project. This area has not been cleared up.
- If the bill only pertains to the DOT and not them even though they work in the highway, then they are fine with the bill. However, if contractors are an extension of DOT, they do not want to be in violation of the fine portion of the statute.

sc

Date Hearing Report completed: April 15, 2021

Speakers

Senate Remote Testify

Judiciary Committee Testify List for Bill HB474 on 2021-04-14

Support: 68 Oppose: 85 Neutral: 0 Total to Testify: 7

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Connolly, Ross	rconnolly@afphq.org	603.530.1151	A Lobbyist	Americans for Prosperity New Hampshire	Support	Yes	4/12/2021 10:23 AM
Doyle, Mark	mark.e.doyle@dos.nh.gov	603.271.6911	State Agency Staff	Department of Safety / Division of Emergency Services and Communications	Oppose	Yes	4/13/2021 7:13 AM
Erf, Keith	keith.erf.h2@kytek.com	Not Given	An Elected Official	Myself	Support	Yes	4/13/2021 4:51 PM
kurk, neal	Not Given	Not Given	A Member of the Public	Myself	Support	Yes	4/13/2021 5:06 PM
Plumer, Scott	splumer@bedfordnh.org	603.472.5113	A Member of the Public	NH Association of Chiefs of Police	Oppose	Yes	4/14/2021 12:24 PM
kurk, heleen	Not Given	Not Given	A Member of the Public	Myself	Support	Yes	4/14/2021 1:35 PM
Horrigan, State Rep. Timothy	timothy.horrigan@leg.state.nh.us	603.969.3823	An Elected Official	Strafford 6	Oppose	Yes	4/14/2021 2:32 PM
m, t	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/15/2021 6:40 PM
rettew, ann	abrettew@gmail.com	Not Given	A Member of the Public	Myself	Support	No	4/14/2021 4:16 PM
Covert, Susan	scovert@comcast.net	603.746.4486	A Member of the Public	Myself	Support	No	4/14/2021 9:07 AM
Hayes, Randy	rcompostr@gmail.com	Not Given	A Member of the Public	Myself	Support	No	4/14/2021 9:14 AM
Wright, William	william.h.wright1@gmail.com	603-520-6555	A Member of the Public	Myself	Oppose	No	4/14/2021 9:21 AM
Richardi, Domenic	drichardi@carrollcountynh.net	16035392284	An Elected Official	Myself	Oppose	No	4/14/2021 9:23 AM
Chaffee, Devon	Not Given	Not Given	A Lobbyist	ACLU of NH	Support	No	4/14/2021 2:51 PM
Platt, Elizabeth-Anne	lizanneplatt09@gmail.com	Not Given	A Member of the Public	Myself	Support	No	4/14/2021 6:57 AM
Oppenlaender, Matthew	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/14/2021 7:20 AM
Krafton, Colby	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/14/2021 7:27 AM
Ellermann, Maureen	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/14/2021 7:31 AM
Marshall, Steven	smarshall@smarshall.us	603.340.0849	A Member of the Public	Myself	Oppose	No	4/13/2021 2:26 PM
West, Devin	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 2:42 PM
Krauss, Richard	rkrauss301@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 3:18 PM
Irwin, Virginia	biddy.irwin@gmail.com	603.863.3582	A Member of the Public	Myself	Support	No	4/13/2021 4:03 PM
Byam, Zachary	zdbyam@marlboroughnh.org	603.876.3311	A Member of the Public	Myself	Oppose	No	4/13/2021 2:20 PM
Cranage, Amy	cranhan@comcast.net	603.252.8531	A Member of the Public	Myself	Support	No	4/13/2021 4:50 PM

Amadon, Roger	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 4:52 PM
Sargent, Elizabeth	esargent@sheehan.com	603-568-0213	A Lobbyist	NH Association of Chiefs of Police	Oppose	No	4/13/2021 5:24 PM
Hinebauch, Mel	Not Given	603.224.4866	A Member of the Public	Myself	Support	No	4/13/2021 11:51 PM
Connelly, Andrew	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/14/2021 7:45 AM
Brunelle, Leigh	lbrunelle11@gmail.com	603.674.9263	A Member of the Public	Myself	Support	No	4/14/2021 7:53 AM
Roy, Leo B	Not Given	603.486.5060	A Member of the Public	Myself	Support	No	4/14/2021 7:54 AM
Greyes, Natch	ngreyes@nhmunicipal.org	Not Given	A Lobbyist	New Hampshire Municipal Association	Oppose	No	4/14/2021 8:31 AM
Larson, Ruth	ruthlarson@msn.com	Not Given	A Member of the Public	Myself	Support	No	4/14/2021 7:34 AM
Simonds, John	jsimonds@sullivancounty.nh.gov	603-863-4200	An Elected Official	Sullivan County	Oppose	No	4/14/2021 10:03 AM
Brave, Mark	mbrave@co.strafford.nh.us	603.534.0605	An Elected Official	Myself	Oppose	No	4/14/2021 11:58 AM
Falk, Cheri	Falk.cj@gmail.com	603.801.4651	A Member of the Public	Myself	Support	No	4/13/2021 7:04 PM
Damon, Claudia	cordsdamon@gmail.com	603.226.4561	A Member of the Public	Myself	Support	No	4/13/2021 8:35 PM
Perencevich, Ruth	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/13/2021 8:39 PM
Richman, Susan	susan7richman@gmail.com	603.868.2758	A Member of the Public	Myself	Support	No	4/13/2021 8:52 PM
Anastasia, Patricia	patti@pattianastasia.com	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 10:01 PM
MacLeod, Kenneth	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/14/2021 11:39 AM
garnett, ronald	soup31314@yahoo.com	603.236.1637	A Member of the Public	Myself	Support	No	4/8/2021 5:14 PM
Lynch, Chrisinda	cmmelynych@comcast.net	603.225.5614	A Member of the Public	Myself	Support	No	4/10/2021 2:09 PM
McGuire, Dan	danmcguire@gmail.com	603.782.4918	A Member of the Public	Myself	Support	No	4/10/2021 7:25 PM
Blair, David	orionblair@gmail.com	603.828.6804	A Member of the Public	Myself	Support	No	4/11/2021 10:43 AM
Thomas, Nicholas	nicholas.w.thomas@uconn.edu	Not Given	A Member of the Public	Myself	Support	No	4/11/2021 4:09 AM
Baiocchetti, Vinnie	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/8/2021 3:15 PM
Kruithof, Leslie	lesliekruithof@gmail.com	201.725.4641	A Member of the Public	Myself	Support	No	4/11/2021 4:09 PM
Hennessey, Martha	martha.hennessey@gmail.com	Not Given	A Member of the Public	Myself	Support	No	4/11/2021 6:11 PM
Hinkel, Robert	r.hinkel@gmail.com	413.478.8701	A Member of the Public	Myself	Support	No	4/12/2021 12:07 PM
Hatcher, Phil	phil.hatcher@gmail.com	603.988.8034	A Member of the Public	Myself	Support	No	4/11/2021 11:41 AM
Bushueff, Catherine	agawamdesigns@gmail.com	Not Given	A Member of the Public	Myself	Support	No	4/11/2021 5:12 PM
Letellier, Kathleen	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/11/2021 7:22 PM
Barretto, Tim	timbarretto@comcast.net	603.749.0037	A Member of the Public	Myself	Support	No	4/12/2021 6:20 AM
Michelson, Barbara	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/11/2021 10:27 AM
Feder, Marsha	marshafeder@gmail.com	603.860.8743	A Member of the Public	Myself	Support	No	4/11/2021 11:17 AM
Reynolds, Charles	reynolds.charles@comcast.net	603.781.0168	A Member of the Public	Myself	Oppose	No	4/12/2021 1:36 PM
Chait, George	george.chait@gmail.com	603.848.3236	A Member of the Public	Myself	Support	No	4/12/2021 1:51 PM
Sullivan, Patrick	Patsully@comcast.net	603.716.6808	A Member of the Public	Myself	Oppose	No	4/12/2021 2:01 PM
Phillips, Margery	Margeryphillips@gmail.com	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 2:06 PM
Clancy, Michelle	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 8:53 AM
Pickering, John	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 7:23 AM

Clay, Donald	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 7:26 AM
Lester, Scott	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 7:29 AM
Lord, Brian	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 7:31 AM
Dolkart, Vivian	viviandolkart@comcast.net	603.865.5117	A Member of the Public	Myself	Support	No	4/13/2021 7:32 AM
DeMark, Richard	demarknh114@gmail.com	603.520.5582	A Member of the Public	Myself	Support	No	4/13/2021 7:54 AM
Chase, Mark	mchasechpd@metrocast.net	603.253.9756	A Member of the Public	Myself	Oppose	No	4/13/2021 7:56 AM
Clark, Denise	denise.m.clark03055@gmail.com	603.213.1692	A Member of the Public	Myself	Support	No	4/13/2021 7:58 AM
Connelly, Joanne	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 7:59 AM
Douville, Linda	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/13/2021 8:06 AM
Samson, Edward	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 8:09 AM
Conley, Daniel	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 8:10 AM
Spielman, Kathy	jspielman@comcast.net	603.397.7879	A Member of the Public	Myself	Support	No	4/13/2021 8:25 AM
poulin, stephan	spoulin@exetermh.gov	603.772.1212	A Member of the Public	Myself	Oppose	No	4/13/2021 8:26 AM
Levesque, Brian	blevesque@merrimacknh.gov	603.860.4478	A Member of the Public	Myself	Oppose	No	4/13/2021 8:32 AM
McLaughlin, Barbara	brbmclaughlin42@gmail.com	760.458.9668	A Member of the Public	Myself	Support	No	4/13/2021 8:32 AM
Estey, Holly	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 8:35 AM
Laurent, Tara	tlaurent@greenlandpd.us	603.431.4624	A Member of the Public	Greenland Police Department	Oppose	No	4/13/2021 8:35 AM
Prentice, Thomas	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 8:35 AM
Sprankle, Jeff	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 8:36 AM
Pelton, Charles	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 8:42 AM
Lindbom, Dan	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 8:43 AM
Fisher, Gary	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 8:43 AM
Spillane, Chris	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 8:52 AM
Hardwick, Bryant	portxejf@yahoo.com	603.740.4986	A Member of the Public	Myself	Support	No	4/13/2021 8:58 AM
Hankard, Stephen	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 8:59 AM
Fisher, Brenda	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 9:02 AM
Fisher, Nicolas	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 9:03 AM
Russo, Steven	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 9:10 AM
Crowley, Timothy	tcrowley@atkinson-nh.gov	978.888.3248	A Member of the Public	Myself	Oppose	No	4/13/2021 9:14 AM
patten, gregory	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 9:25 AM
Walters, Gregory	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 9:33 AM
Watson, Clyde	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/13/2021 9:35 AM
Nightingale, Jonathan	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 9:43 AM
Koch, Laurie	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/13/2021 9:44 AM
Noyes, David	pdchief@wvpublicsafety.com	603.236.8809	A Member of the Public	Myself	Oppose	No	4/13/2021 10:55 AM
Lewis, Gerald	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 11:02 AM
Burke, Brian	brburke@comcast.net	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 11:34 AM

Auciello, Michael	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 9:50 AM
Axelman, Elliot	alu.axelman@gmail.com	732.674.2355	A Member of the Public	Myself	Support	No	4/13/2021 9:59 AM
Wallin, Stephen	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 10:00 AM
Sargent, Benjamin	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 10:07 AM
Tarleton, Matt	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 10:12 AM
KRAFTON, DAWN	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 10:21 AM
Russell, Timothy	chieftimrussell@hotmail.com	603.748.4834	A Member of the Public	Myself	Oppose	No	4/13/2021 10:21 AM
Marquis, Eric	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 10:27 AM
Shupe, Jessica	jshupe@exeternh.gov	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 10:27 AM
Laker-Phelps, Gail	lpsart@tds.net	603.798.5394	A Member of the Public	Myself	Support	No	4/13/2021 10:27 AM
Gioia, Ashley	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 10:28 AM
Bagan, Michael	mbagan@grotonnh.org	603.530.1000	A Member of the Public	Myself	Oppose	No	4/13/2021 12:11 PM
mcfadden, jeanne	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 12:47 PM
DiGaetano, Scott	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 1:11 PM
QUISUMBING-KING, Cora	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 10:55 AM
Wallace, Andrew	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 11:31 AM
Alleman, Bill	gencourt@allemanse.com	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 3:22 PM
Pauer, Eric	secretary@BrooklineGOP.org	603.732.8489	A Member of the Public	Myself	Support	No	4/12/2021 12:53 PM
Russell, Scott	srussell@nhpd.org	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 1:16 PM
Morency, Peter	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/12/2021 4:36 PM
Garone, Edward	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/12/2021 4:47 PM
Berube, Aaron	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/12/2021 6:39 PM
Moran, Karen	karenmoran@tds.net	603.746.2017	A Member of the Public	Myself	Support	No	4/12/2021 6:44 PM
Madore, Walter	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/12/2021 7:16 PM
Wunderlich, Robert	chiefhrw@yahoo.com	803.759.0735	A Member of the Public	Myself	Oppose	No	4/12/2021 7:16 PM
Kaufman, Amy	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 7:18 PM
Reed, Barbara D.	BDRreed74@gmail.com	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 9:11 PM
Dennis, Charles	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/12/2021 5:10 PM
Pexton, Olivia	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 5:13 PM
Osgood, Bradley	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/12/2021 6:11 PM
Reams, Mark	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/12/2021 6:16 PM
Bean Burpee, Anthony	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/12/2021 7:03 PM
Douglas, Fred	fgdouglas@outlook.com	603.493.2322	A Member of the Public	Myself	Oppose	No	4/12/2021 7:04 PM
Brackett, Albert	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/12/2021 7:45 PM
Monier, Steve	srm47@comcast.net	603.387.8595	A Member of the Public	Myself	Oppose	No	4/12/2021 8:02 PM
Dewey, Karen	pkdewey@comcast.net	603.504.2813	A Member of the Public	Myself	Support	No	4/12/2021 8:18 PM

Torpey, Jeanne	Not Given	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 8:27 PM
Mitchell, Taylor	t93mitch@yahoo.com	603.785.1834	A Member of the Public	Myself	Oppose	No	4/12/2021 9:27 PM
Edelson, Rachel	redelson@hotmail.com	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 9:30 PM
Mennella, Alexandra	amennella1@protonmail.com	16466109858	A Member of the Public	Myself	Support	No	4/12/2021 9:34 PM
Garland, Ann	annhgarland@gmail.com	603.678.8143	A Member of the Public	Myself	Support	No	4/12/2021 9:41 PM
Shagoury, Andrew	a.shagoury@tuftonboro.org	603.569.8695	A Member of the Public	Myself	Oppose	No	4/12/2021 11:05 PM
See, Alvin	absee@4Liberty.net	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 11:39 PM
Istel, Claudia	claudia@sover.net	Not Given	A Member of the Public	Myself	Support	No	4/12/2021 11:41 PM
Goldstein, David	dgoldstein@franklinnh.org	16039989782	A Member of the Public	Myself	Oppose	No	4/13/2021 6:30 AM
Long, Julian	julianleelong@yahoo.com	603.767.1953	A Member of the Public	Myself	Support	No	4/12/2021 10:17 PM
Goldwater, Catherine	cathy.goldwater@gmail.com	603.860.3756	A Member of the Public	Myself	Support	No	4/13/2021 6:32 AM
Salois, David	davidts@comcast.net	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 6:38 AM
Carpenter, Timothy	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 6:46 AM
McDowell, Joseph	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 6:47 AM
maille, christine	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 7:00 AM
Verschueren, Jim	jd.verschueren@gmail.com	603.978.0398	A Member of the Public	Myself	Support	No	4/12/2021 10:44 PM
Blurton, Jeffrey	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 7:03 AM
Connelly, Christopher	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	4/13/2021 7:07 AM
Brookmeyer, Janet	brookmeyermusic@gmail.com	603.667.1356	A Member of the Public	Myself	Support	No	4/13/2021 7:10 AM

Testimony

Jennifer Horgan

From: David Blair <orionblair@gmail.com>
Sent: Sunday, April 11, 2021 10:43 AM
To: Jay Kahn; Sharon Carson; Harold French; William Gannon; Becky Whitley
Cc: Jennifer Horgan
Subject: bills before the Senate Judiciary Committee

Dear members of the Senate Judiciary Committee,

You have a very full week ahead of you, and I wish you wisdom as you consider some very important bills.

I am writing to express my support for all of the following bills, which will come before you on Tuesday, Wednesday and Thursday:

HB 270 (post-conviction DNA testing)
HB 615 (reduction of penalty for certain first offense drug possessions)
HB 436 (eyewitness identification)
HB 474 (public surveillance on public ways)
HB 471 (police disciplinary hearings)
HB 485 (right to refuse consensual search)

Thank you all for your work on behalf of justice and safety for all NH residents!

Sincerely,

David Blair
77 South Road
Harrisville, NH



Statement by Gilles Bissonnette, ACLU-NH Legal Director
Senate Judiciary Committee
House Bill 474
April 14, 2021

I submit this testimony on behalf of the American Civil Liberties Union of New Hampshire (“ACLU-NH”), a non-partisan, non-profit organization working to protect civil liberties for over 50 years. I appreciate the opportunity to testify today in support of HB474, which would help ensure that—unlike New York City, London, and China—New Hampshire does not become a surveillance state.

HB474 Conforms RSA 236:130 to Its Original Intent to Prevent Motorist Surveillance.

The legislature enacted RSA 236:130 in 2006 with the intent to ban state and municipal governmental entities from using surveillance cameras that *could* capture identifying information concerning motorists. For example, as Representative Kurk explained in his 2006 legislative testimony: “[This] is a bill that basically says that the state shall not take general surveillance pictures of the citizens traveling on the state highways All [this bill] does is that it says that there can be no generalized surveillance” Similarly, as former Department of Safety Assistant Commissioner Earl Sweeney told the Senate Committee on Transportation and Interstate Cooperation on April 5, 2006 when this law was being considered:

There is one aspect of the bill that will probably not effect law enforcement but could affect local police I should mention. Some states, some police departments set up cameras to monitor, for example, the downtown business district to detect or deter burglaries, vandalism, drug dealing. Since this is general use rather than case specific directed at a particular individual or a particular crime at a specific time and place, *if this bill passes we do not believe that this usage would be allowed in New Hampshire* without specific legislation at a future time legalizing it.

So I think for example, if the police in Lebanon decided they want to put those cameras in they would have to come to the legislature to get a bill that would authorize this

Notwithstanding this legislative intent, one Superior Court—in addressing a 2019 legal challenge to Manchester’s use of surveillance cameras on Elm Street brought by Representative Kurk and the ACLU-NH—interpreted this law more narrowly and limited its reach to only when a government uses a camera to specifically “determin[e] the ownership of a motor vehicle or the identity of a motor vehicle’s occupants on the public ways.” This bill aims to address this decision by modifying RSA 236:130 to conform to the legislature’s original 2006 intent by more broadly barring surveillance cameras that “can” be used to identify a motorist.

HB474 Will Help Ensure That New Hampshire Does Not Become a Surveillance State.

The legislature specifically enacted RSA 236:130 in 2006 to prevent New Hampshire from becoming like New York City, London, or China where the use of surveillance cameras by the government is pervasive. New York City has an estimated 18,000 cameras linked to a system the New York Police Department calls the “Domain Awareness System.”¹ Some estimates indicate

¹ <https://www.nydailynews.com/new-york/nyc-crime/ny-metro-argus-cameras-east-20181024-story.html>.

that Greater London has upwards of 600,000 surveillance cameras.² In addition, by next year, China is projected to have one public camera for every two people.³

This bill, like the 2006 original, rejects the government surveillance that has become common in some major U.S. cities and internationally. And, in so doing, HB474 expands the law's surveillance protections to sidewalks and pedestrians (the original law only protected motorists). We see this as consistent with the intent of the 2006 bill to prevent government surveillance.

The Value of Government Surveillance Is Minimal Relative to Its Intrusion.

The real reason surveillance cameras are usually deployed—as in Manchester—is to reduce petty crimes. But it has not been demonstrated that they do that. In Britain, for example, where cameras have been extensively deployed in public places, sociologists studying the issue have found that they have not reduced crime. A 2005 study for the British Home Office found that cameras did not cut crime or the fear of crime (as had a 2002 study, also for the British government).⁴

Surveillance is also prone to abuse. Surveillance systems present law enforcement “bad apples” with a tempting opportunity for criminal misuse. In 1997, for example, a top-ranking police official in Washington, DC, was caught using police databases to gather information on patrons of a gay club. By looking up the license plate numbers of cars parked at the club and researching the backgrounds of the vehicles' owners, he tried to blackmail patrons who were married.⁵

Powerful surveillance tools also create temptations to abuse them for personal purposes. An investigation by the Detroit Free Press, for example, showed that a database available to Michigan law enforcement was used by officers to help their friends or themselves stalk women, threaten motorists after traffic altercations, and track estranged spouses.⁶

Video camera systems are operated by humans who bring to the job all their existing prejudices and biases. In Great Britain, camera operators have been found to focus disproportionately on people of color. According to a sociological study of how the systems were operated, “Black people were between one-and-a-half and two-and-a-half times more likely to be surveilled than one would expect from their presence in the population.”⁷

Finally, the growing presence of public cameras will bring subtle but profound changes to the character of our public spaces. When citizens are being watched by the authorities—or aware they might be watched at any time—they are more self-conscious and less free-wheeling. As syndicated columnist Jacob Sullum has pointed out, “knowing that you are being watched by armed government agents tends to put a damper on things. You don't want to offend them or otherwise call attention to yourself.” Eventually, he warns, “people may learn to be careful about the books and periodicals they read in public, avoiding titles that might alarm unseen observers. They may also put more thought into how they dress, lest they look like terrorists, gang members, druggies

² <https://www.cctv.co.uk/how-many-cctv-cameras-are-there-in-london/>

³ <https://www.comparitech.com/vpn-privacy/the-worlds-most-surveilled-cities/>.

⁴ http://news.bbc.co.uk/2/hi/uk_news/england/leicestershire/4294693.stm.

⁵ <https://www.washingtonpost.com/wp-srv/local/longterm/library/dc/dcpolice/stories/stowe25.htm>

⁶ <https://www.aclu.org/other/whats-wrong-public-video-surveillance>.

⁷ <https://www.aclu.org/other/whats-wrong-public-video-surveillance>.

or hookers.” Indeed, the studies of cameras in Britain found that people deemed to be “out of time and place” with the surroundings were subjected to prolonged surveillance.⁸

In short, like any intrusive technology, the benefits of deploying public video cameras must be balanced against the costs and dangers. This technology: (a) has the potential to change the core experience of going out in public in New Hampshire because of its chilling effect on citizens, (b) carries very real dangers of abuse and “mission creep,” and (c) would not significantly protect us against crime. Given that, its benefits—preventing at most a few street crimes, and probably none—are disproportionately small.

For these reasons, the ACLU-NH respectfully urges the members of this committee to vote *ought to pass* on HB474.

⁸ <https://www.aclu.org/other/whats-wrong-public-video-surveillance>.



State of New Hampshire
 Department of Safety
 Division of Emergency Services and Communications
 James H. Hayes Safety Building
 33 Hazen Drive
 Concord, New Hampshire 03305



Robert L. Quinn
 Commissioner, Department of Safety

Mark E. Doyle
 Director, Division of Emergency Services & Communications

Richard C. Bailey, Jr.
 Assistant Commissioner, Department of Safety

Robert M. Lussier
 Assistant Director, Division of Emergency Services & Communications

Eddie Edwards
 Assistant Commissioner, Department of Safety

Vacant
 Assistant Director, Division of Emergency Services & Communications

Enhanced 9-1-1

Commission Members:

Chairman
 Retired Chief Paul Szoc
 NH Federation of Fire Mutual Aids

Vice Chairman
 Captain George Valliere
 NH Police Officer

Secretary
 William Wood
 NH Division of Fire Standards
 and Training and EMS

Kathryn Bailey
 NH Public Utilities Commission

Scott A. Brooks
 NH Telephone Association

John T. Stone
 Consolidated Communications

David Stack
 NH Municipal Association

Michael Moyer
 NH Sheriff's Association

Richard C. Bailey, Jr.
 Assistant Commissioner
 NH Department of Safety

Cecily McNair
 Public Member

Amanda M. Cormier
 Professional Firefighters of NH

Chief James Valiquet
 NH Association of Police Chiefs

Charles M. Arlinghaus
 NH Department of Administrative
 Services

Sandra Tei
 NH Disabled Community

Patrick Robinson
 Mobile Telecommunications
 Carriers Industry

E. Douglas Hacken
 NH Emergency Dispatchers
 Association

Vacant
 NE Cable Telecommunications
 Association

Chief Henry Thomas
 NH Association of Fire Chiefs

Christopher K. Hodgson
 Comcast

To: Jennifer Horgan (jennifer.horgan@leg.state.nh.us)
 From: Director Mark E. Doyle,
 New Hampshire Department of Safety
 Division of Emergency Services and Communications

Date: April 13 2021

Re: Testimony to Judiciary Committee— HB 474: Prohibiting surveillance by the state on public ways or sidewalks

HB 474, as presented and if passed, will have unanticipated consequences on the ability of New Hampshire's E9-1-1 system to render help to those calling 9-1-1 for help. For example, in cases where drivers of motor vehicles are incapacitated during an accident, the owner's cell phone, which in many cases is either configured to automatically notify 9-1-1 or is linked to the vehicle's on-board emergency notification system will "call" 9-1-1.

The notification to 9-1-1 made by the phone or on-board collision notification system will provide the 9-1-1 Telecommunicator with information that can help identify the vehicle and/or owner of the phone, as well as provide the location of the crash so that emergency response agencies can be notified to respond and render aid as quickly as possible. Some of those systems allow for voice-voice communication with call centers which may also contact E9-1-1 and provide a channel of voice communication between a Telecommunicator and an otherwise disabled operator. Some of those notifications include airbag deployment, direction of travel, distress signals/alerts, and GPS location services – all critically important for first responders to have to adequately prepare for an emergency response. These services are generally subscribed to by the owner of the vehicle and are expected to work by the vehicle operator for the purpose described. To prevent these services, from connecting with 9-1-1 in an emergency is unacceptable.

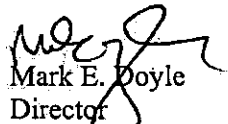
Another example would be "fall detection" on some devices, including smart watches. The telematics involved utilize, in many cases, an Internet or LTE connection to send the alert with identifying (and location) information to the E9-1-1 PSAP so that an appropriate first responder dispatch notification can be made without hesitation.

If passed, this will prevent this emergency communications system from working and place motorists, and potentially pedestrians, in precarious situations if they are incapacitated due to injuries sustained in a crash or fall - leaving them unable to connect

with E9-1-1 Telecommunicators, and significantly delaying or, at worse, preventing an alert from being made on their behalf. This would, in turn, prevent or delay the response of life-safety services from being notified of an emergency and significantly impact their ability to render lifesaving aid in a timely manner.

We currently oppose the legislation as written for the reasons mentioned.

Thank you for your consideration,



Mark E. Doyle
Director

New Hampshire Department of Safety
Division of Emergency Services and Communications
603-223-3880
mark.e.doyle@dos.nh.gov



Date April 14, 2021

Honorable Sharon Carson
Senate Judiciary Committee
State House
Concord, New Hampshire

Via Electronic Delivery Only

Re: HB 474, prohibiting surveillance by the state on public ways or sidewalks.

Dear Senator Carson and members of the Senate Judiciary Committee:

HB 474 changes the definition of “surveillance” under RSA 236:130, and adds a penalty for those “persons” who work for the state or its subdivisions that engage in surveillance on any public roads or sidewalks. For the reasons explained below, HB 474 could be read to prohibit the use of police cruiser cameras, thus depriving the courts an objective third party observer of police activities, as well as result in unclear assignment of penalties for use of such police cruiser cameras. Undoubtedly, other currently lawful uses of state or municipally owned cameras may also be prohibited under this bill for similarly detrimental effect. For these reasons, NHMA opposes HB 474.

HB 474 redefines “surveillance” under RSA 236:130 to read, in relevant part, “the use of a camera or other imaging device... that by itself or in conjunction with other devices or information can be used to determine the ownership or location of a motor vehicle, [or] the identity of a motor vehicle's occupants, or the identity or location of a pedestrian. Importantly, this definition merely requires that the image captured “can” be used to determine the location of a vehicle or pedestrian. In other words, if the image captured shows a street sign or distinctive building, such as the state capitol, anyone would be able to identify where that motor vehicle or pedestrian is or was located. Thus, any video captured by any police cruiser “can” be used to determine the location of the motor vehicle or pedestrian who is in frame.

While proponents of HB 474 may point out that RSA 236:130 contains a series of “savings” provisions to allow the state and its subdivisions to lawfully capture “surveillance” footage that would otherwise be prohibited, none of those provisions clearly exempts outward-looking police cruiser cameras. Unlike body worn cameras, police cruiser cameras are not specifically authorized by statute as allowed under exception (a) (although they are authorized in the limited context of not violating the wiretapping statute, RSA 570-A:2, II(j)), and, while portions of a cruiser camera recording may be deemed to have been “undertaken on a case-by-case basis in the investigation of a particular violation, misdemeanor, or felony” as allowed under exception (b), it is not always the case that cruiser camera footage is taken during the course of an “investigation.” It may, for instance, be started prior to the commencement of an investigation or in a non-investigatory context, such as working to rid a dumpster of bears, due either to department policy or technological integrations. For example, many departments have cameras that automatically begin recording when the police siren goes off as a sensible policy to ensure that siren use is not being abused, and officers may try to use the siren to scare a bear prior to exiting their vehicle.

Any owner of any motor vehicle or pedestrian whose location “can” be identified could sue “the person” who violated their right not to be surveilled. HB 474 does not identify “the person.” Conceivably, that

could mean the individual officer, the police chief who adopted the departmental policy, or, even, the technology company who provided the cameras, if said cameras sync, as may occur not only in the context of sirens, but also integrated body camera systems. As such, someone, although it is not clear exactly who, faces a significant risk of liability if a police cruiser camera is used in something other than a very narrow context.

The intent of HB 474 appears to be to restrict widespread use of closed-circuit camera systems like those used in Britain. As written, however it restricts the government's ability to ensure that individual police officers are able to use video recording devices during their routine interactions with the public, and subjects someone to significant risk of liability.

Sincerely,



Natch Greyes
Municipal Services Counsel

cc: Committee members

Jennifer Horgan

From: Rachel Edelson <redelson@hotmail.com>
Sent: Monday, April 12, 2021 9:42 PM
To: Jennifer Horgan
Subject: Urging SUPPORT for These Bills

Dear Committee Aide Jennifer Hogan,

As an involved resident of Nashua I wrote to the members of the Judiciary committee to express my **SUPPORT** these Bills which are going to be voted on this week:

HB 270
HB 615
HB 436
HB 474
HB 471
HB 485

Thank you for your work as part of our democracy.

Sincerely,
Rachel Edelson
Bay Ridge Apts.
Nashua NH 03062

Jennifer Horgan

From: Keith Erf
Sent: Wednesday, April 21, 2021 8:04 AM
To: Sharon Carson; William Gannon; Harold French; Becky Whitley; Jay Kahn
Cc: Jennifer Horgan
Subject: Amendment to HB474: Prohibiting surveillance by the State on Public Ways or Sidewalks

Chairman Carson and Honorable Senators:

In response to some concerns that arose at your recent Committee hearing on HB474, I have worked with the Honorable Neal Kurk and others to prepare an amendment to HB474 to address those concerns. Specifically, Mark Doyle of the Department of Safety was contacted and he felt the addition of the word "incident" in RSA 236-130, III(b) solved the problem of E911 locating vehicles. We weren't able to reach Captain Plumer of the Bedford Police, but the amendment exempts dash cams specifically. Language was added to exempt contractors specifically, the concern raised by Gary Abbott of Associated General Contractors.

I have sent OLS draft language to address these concerns and explained the amendment is for your Committee. I don't know if they'll send that directly to your Committee or provide it to me for that purpose. If it comes to me I will forward it to the Committee immediately.

I thank you for your time in considering the proposed amendment.

Keith Erf
NH State Representative
Weare and Deering

To: Senator Sharon Carson
Chair Judiciary Committee
and
Judiciary Committee members

Sponsor Testimony From:
Rep. Keith Erf
Hillsborough District 2
Deering and Weare
Apr 13, 2021

HB 474: Prohibiting surveillance by the State on Public Ways or Sidewalks

Summary

This bill clarifies the existing statute that prohibits the state or its municipalities from using cameras or similar devices to determine ownership of a motor vehicle or the identity of its occupants on any public way. It ensures that the prohibition applies not just to vehicle ownership but also to vehicle location. It also expands these protections to include pedestrians using public sidewalks. It provides a private right of action for those injured by a violation of the prohibition. Finally, as amended, it addresses a problem in the existing statute by exempting the Department of Natural Resources from the statute. These changes are an important legislative step in keeping with the recently passed informational privacy amendment to the State's Constitution.

Testimony

HB474 is a bill prohibiting surveillance by the State on Public Ways and Sidewalks. In 2018 New Hampshire citizens passed the Right to Privacy amendment to our State constitution with 81% voting in favor. This amendment states "An individual's right to live free from governmental intrusion in private or personal information is natural, essential, and inherent." HB474 continues the process of defining this right in statute.

This is an amended version of the bill that passed the House in 2020. It passed the House 267 - 18. The constraints of Covid prevented the Senate from considering it last year and it was Laid on the Table.

RSA 236:130 is an existing statute that prohibits the State or its municipalities from using cameras or similar devices to determine ownership of a motor vehicle or the identity of its occupants on any public way. HB474 clarifies the statute to ensure that the prohibition applies not just to vehicle ownership and occupants but also to vehicle location.

It expands these protections to include pedestrians using public sidewalks. This assures that the State is not part of the location and identity tracking that surrounds us as we move through the world today.

Finally , as amended by the House, if addresses a problem in the existing statute by exempting the Department of Natural Resources from the statute.

To: Senator Sharon Carson
Chair Judiciary Committee
and
Judiciary Committee members

From Sponsor:
Rep. Keith Erf
Hillsborough District 2
Deering and Weare
Apr 15, 2021

HB 474: Prohibiting surveillance by the State on Public Ways or Sidewalks

Thank you for taking the time to hear HB474 yesterday. I was listening to the testimony of those opposed to the bill and there seemed to be a common theme - all the concerns raised are with the statute RSA 236:130 as it currently exists and not with the amendments to that statute that HB474 adds.

Mr Abbott of Associated General Contractors questioned whether contractors that supply state services, such as constructing roads, were subject to RSA 236:130. Mr Abbott raised this issue at the House hearing as well. Based on my conversation with Mr Kurk at the time, I think the answer is they are not. Current law, RSA 236:130,II, imposes restrictions with respect to highway surveillance on "the state of New Hampshire . . ." In Mr Kurk's opinion that includes agents of the state, but it does not include those who enter into contracts with the state to provide goods or services, as they are not agents. In any case, HB474 doesn't make changes to the existing stature in this regard. The House Judiciary Committee apparently agreed with this assessment as I offered to have an amendment drawn up as I did for the Department of Natural Resources and they didn't take up the offer.

The issue Captain Scott Plumber raised with respect to dash cams and body-worn cameras was also brought up at the House hearing. I provided this follow-up information to the House Judiciary committee at the time:

Those are currently exempt and will remain exempt if HB474 is enacted. RSA 236:130,II(b) exempts "surveillance" "undertaken on a case-by-case basis in the investigation of a particular violation, misdemeanor or felony." That's what these devices do: body-worn cameras are turned on at the scene of a crime and used there, while dash cams take a broader picture of, say, a traffic stop. If the dash cam is being used continuously to record all traffic, yes, that would not come under the exception, but that's what current law is intended to stop: generalized surveillance of people traveling the roadways of our state.

Mr Doyle of the Department of Safety raised an issue with the 911 system. This is the first time the issue was raised. It wasn't brought up in the House Judiciary Committee either last term when a similar bill was heard or this year. I am not clear as to how the concern is impacted by the amendment in HB474. However, I believe Mr Kurk offered to prepare an amendment to address the concern once it is understood and I will work with Mr Kurk, Mr Doyle and OLS to develop an amendment if that is needed.

In 2018 New Hampshire citizens passed the Right to Privacy amendment to our State constitution with 81% voting in favor. This amendment states "An individual's right to live free from governmental intrusion in private or personal information is natural, essential, and inherent." HB474 continues the process of defining this right in statute. The bill passed out of the House Committee 17-3 and out of the House by a voice vote this year and a similar bill considered during the last term passed the House Committee 16-3 and the full House 267-18. I believe there is bipartisan support to provide New Hampshire citizens the ability to move about their daily lives without concern they are being tracked by the State.

Thank you for your consideration.

Jennifer Horgan

From: Sharon Carson
Sent: Wednesday, April 14, 2021 4:04 PM
To: Jennifer Horgan
Subject: FW: HB 474

From: Rep03281 <rep03281@aol.com>
Sent: Wednesday, April 14, 2021 3:25 PM
To: Sharon Carson <Sharon.Carson@leg.state.nh.us>
Cc: Jessica Bourque <jessica.bourque@leg.state.nh.us>
Subject: HB 474

Dear Senator Carson:

Due apparently to a technical malfunction, I was unable to respond to testimony at today's hearing on HB 474. Please accept this email as my response.

1. Mark Doyle (Department of Safety). DoS did not testify at the House hearing on the bill, and this is the first time I'm hearing of their concerns relating to E911. I need to understand better how E911 uses cameras on public roads and would like the opportunity to speak with Mr. Doyle and prepare an amendment to address the Department's concerns.

2. Scott Plumber (Bedford Police Department and Association of Police Chiefs). Captain Plumber expressed concerns about the effect of the bill on body cams and dash cams. HB 474 made no changes in the current law (RSA 236:130), so his concerns would remain regardless of whether HB 474 is enacted or not.

However, I believe current law addresses some of his concerns. With respect to body cameras, RSA 236, I(b) provides an exception for surveillance "undertaken on a case-by-case basis". That's what body cameras do, so they are not affected by current law or the bill. Second, with respect to dash cams, it's not clear to me how they are being used, so I would like the opportunity to speak with Captain Plumber to discuss his concerns.

3. Rep. Horrigan. He expressed concerns about the use of cameras on state property. Nothing in the bill or in RSA 136:130 deals with this, so state departments are free to use cameras on their own property. Indeed, RSA 236:130, III(d) exempts surveillance "incidental to the monitoring of a building or other structure under the control of the state or a political subdivision of the state". An exemption for state parks was provided because they contain public roads and sidewalks.

4. Gary Abbott (Association of General Contractors). Mr. Abbott is concerned that his members' contracts with the state to do work on state highways will in some way prevent them from using drones and cameras in the course of their work. HB 474 makes no change in the statute with respect to this concern, so his concerns are with the current statute. RSA 236:130 applies to the state and would include agents of the state, but not contractors. Mr. Abbott's members enter into contracts with the state, so current law does not apply to them, and their use of drones and cameras doesn't violate RSA 236:130. If the Committee wishes, I will draft an amendment to clarify this.

I hope the Committee's schedule for acting on HB 474 will allow me time to prepared these amendments.

Respectfully,

Neal Kuyrk
529-7253

Jennifer Horgan

From: Trudy Mott-Smith <wmottsm@worldpath.net>
Sent: Saturday, May 22, 2021 11:42 AM
To: Sharon Carson; William Gannon; Harold French; Becky Whitley; Jay Kahn; Jennifer Horgan
Subject: HB 474

Dear Chairperson Carson and Members of the Senate Judiciary Committee,

I am so afraid that New Hampshire cities will become like London and New York, with cameras everywhere filming our every move on the streets and sidewalks!

That would be both creepy and dangerous, because our pictures could be circulated for reasons ranging from minor annoyance to blackmail.

New Hampshire is a place where we value our privacy. That is one of the reasons I chose to live here.

Please vote "ought to pass" on HB 474.

Thank you. Sincerely,

Wiltrud R. Mott-Smith
91 Kenney Road
Loudon, NH

Voting Sheets

Senate Judiciary Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # HB474

Hearing date: _____

Executive Session date: _____

Motion of: ITL Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. French	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Whitley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Gannon

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Tuesday, May 25, 2021

THE COMMITTEE ON Judiciary

to which was referred HB 474

AN ACT

prohibiting surveillance by the state on public ways
or sidewalks.

Having considered the same, the committee recommends that the Bill

IS INEXPEDIENT TO LEGISLATE

BY A VOTE OF: 5-0

Senator Bill Gannon
For the Committee

This bill would prohibit the use of surveillance to determine the location of a motor vehicle or the identity or location of a pedestrian. Individuals do not have an expectation of privacy on public ways and the significant unintended consequences of this bill would severely impact the safety of our roadways. Therefore, the Committee asks for support of the motion of Inexpedient to Legislate.

Jennifer Horgan 271-7875

FOR THE CONSENT CALENDAR

JUDICIARY

HB 474, prohibiting surveillance by the state on public ways or sidewalks.

Inexpedient to Legislate, Vote 5-0.

Senator Bill Gannon for the committee.

This bill would prohibit the use of surveillance to determine the location of a motor vehicle or the identity or location of a pedestrian. Individuals do not have an expectation of privacy on public ways and the significant unintended consequences of this bill would severely impact the safety of our roadways. Therefore, the Committee asks for support of the motion of Inexpedient to Legislate.

General Court of New Hampshire - Bill Status System

Docket of HB474

Docket Abbreviations

Bill Title: prohibiting surveillance by the state on public ways or sidewalks.**Official Docket of HB474.:**

Date	Body	Description
1/10/2021	H	Introduced (in recess of) 01/06/2021 and referred to Judiciary HJ 2 P. 49
2/19/2021	H	Public Hearing: 02/19/2021 02:00 pm Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/92168223794 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
3/2/2021	H	Executive Session: 03/02/2021 09:00 am Members of the public may attend using the following link: To join the webinar: https://www.zoom.us/j/95501229688
3/9/2021	H	Committee Report: Ought to Pass with Amendment #2021-0461h (Vote 17-3; CC) HC 18 P. 17
4/7/2021	H	Amendment #2021-0461h : AA VV 04/07/2021 HJ 5 P. 38
4/7/2021	H	Ought to Pass with Amendment 2021-0461h: MA VV 04/07/2021 HJ 5 P. 38
4/7/2021	H	Reconsider (Rep. Osborne): MF VV 04/07/2021 HJ 5 P. 50
4/7/2021	S	Introduced 04/01/2021 and Referred to Judiciary; SJ 11
4/7/2021	S	Remote Hearing : 04/14/2021, 01:45 pm; Links to join the hearing can be found in the Senate Calendar; SC 19
5/25/2021	S	Committee Report: Inexpedient to Legislate; Vote 5-0; CC; 05/27/2021; SC 25A
5/27/2021	S	Inexpedient to Legislate, MA, VV === BILL KILLED ===; 05/27/2021; SJ 17

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB474

Senate Committee: Jud

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 1174b - amendment # _____

- amendment # _____ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # _____ - amendment # _____

- amendment # _____ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

Enrolled Bill Amendment(s)

Governor's Veto Message

All available versions of the bill: {Clerk's Office}

as amended by the senate as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Jennifer Horgan
Committee Aide

8/16/21
Date

Senate Clerk's Office AK